

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

In re: : CHAPTER 7
: :
MICHAEL J. BLYDENSTEIN, : CASE NO. 18-71767-PMB
: :
Debtor. :
_____ :

NOTICE OF PLEADING, DEADLINE TO OBJECT, AND FOR HEARING

PLEASE TAKE NOTICE THAT on April 20, 2020, S. Gregory Hays, as Chapter 7 Trustee (the “Trustee”) for the bankruptcy estate (the “Bankruptcy Estate”) of Michael J. Blydenstein (“Debtor”), filed his *Trustee’s Motion (1) For Authority To Sell At Public Auction Personal Property Of The Estate Free And Clear Of All Liens, Claims, Interests, And Encumbrances And (2) To Allow And Authorize Certain Disbursements* [Doc. No. 59] (the “Sale Motion”) with the Court seeking an order, among other things, authorizing Trustee to sell a 2010 Audi A4 Avant and three (3) handguns at public auction. The Sale Motion is on file with the Clerk of this Court at the address set forth below and is available for review between 8:00 a.m. and 4:00 p.m. or online anytime at <http://ecf.ganb.uscourts.gov> (registered users) or at <http://pacer.psc.uscourts.gov> (unregistered users) or a copy may be obtained from counsel for the Trustee identified below.

Pursuant to General Order No. 24-2018, the Court may consider this matter without further notice or a hearing if no party in interest files a response or objection within twenty-one (21) days from the date of service of this notice. **If you object to the relief requested in the Sale Motion, you must timely file your objection with the Bankruptcy Clerk** at: Bankruptcy Clerk, United States Bankruptcy Court, Room 1340, 75 Ted Turner Drive, S.W., Atlanta, Georgia 30303, and serve a copy on the Trustee’s attorney, Herbert C. Broadfoot II, 2964 Peachtree Road, N.W., Suite 555, Atlanta, Georgia 30305, and any other appropriate persons by the objection deadline. The response or objection must explain your position and be actually received by the Bankruptcy Clerk within the required time.

PLEASE TAKE FURTHER NOTICE that a hearing has been scheduled by the Court for **May 18, 2020 at 2:00 P.M. in Courtroom 1202 Richard B. Russell Federal Building, 75 Ted Turner Drive, S.W. Atlanta, Georgia 30303**.to consider the Sale Motion and any timely response or objection thereto. **If you do not file a response or objection within the time permitted, the Court may grant the relief requested without further notice or hearing** provided that an order approving the relief requested is entered at least one business day prior to the scheduled hearing. If no objection is timely filed, but no order is entered granting the relief requested at least one business day prior to the hearing, the hearing will be held at the time and place as scheduled.

Given the current public health crisis, hearings may be telephonic only. Please check the “Important Information Regarding Court Operations During COVID-19 Outbreak” tab at the top of the GANB Website prior to the hearing for instructions on whether to appear in person or by phone.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

This 20th day of April, 2020.

HERBERT C. BROADFOOT II, P.C.

/s/ Herbert C. Broadfoot II

Herbert C. Broadfoot II

Georgia Bar No. 083750

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Atlanta, GA 30305

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Counsel for the Trustee

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE: : CASE NO. 18-71767-PMB
:
MICHAEL J. BLYDENSTEIN, : CHAPTER 7
:
Debtor. :
:

**TRUSTEE'S MOTION (1) FOR AUTHORITY TO SELL AT PUBLIC AUCTION
PERSONAL PROPERTY OF THE ESTATE FREE AND CLEAR OF ALL LIENS,
CLAIMS, INTERESTS, AND ENCUMBRANCES AND (2) TO ALLOW AND AUTHORIZE
CERTAIN DISBURSEMENTS**

COMES NOW S. Gregory Hays, Chapter 7 Trustee ("Trustee") for Michael J. Blydenstein ("**Debtor**"), by and through undersigned counsel, and pursuant to 11 U.S.C. §§ 363(b), (f), and Fed. R. Bankr. P. 2002(a)(2), 6004(a), 6004(c) and 9014, and files this *Trustee's Motion (1) for Authority to Sell at Public Auction Personal Property of the Estate Free and Clear of all Liens, Claims, Interests, and Encumbrances and (2) to Allow and Authorize Certain Disbursements* ("**Sale Motion**"), and respectfully shows the Court as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this Sale Motion under 28 U.S.C. §§ 157 and 1334. Venue of this case in this District is proper under 28 U.S.C. §§ 1408 and 1409. This Sale Motion is a core proceeding under 28 U.S.C. § 157(b)(2).

Background

a. General Background Information

2. On December 30, 2018 (the "**Petition Date**"), Debtor filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division ("**Bankruptcy Court**"), initiating Chapter 7 Case No. 18-71767-PMB

(the “**Bankruptcy Case**”). Trustee was subsequently appointed the duly acting Chapter 7 trustee in the Bankruptcy Case and became the permanent Trustee at the conclusion of the Meeting of Creditors.

3. At the commencement of the Bankruptcy Case, all legal and equitable rights of Debtor became property of his bankruptcy estate (the “**Bankruptcy Estate**”), and Trustee was and continues to be the sole representative of the Bankruptcy Estate.

4. On his bankruptcy schedules, Debtor scheduled his sole ownership interest in a 2010 Audi A4 Avant (the “**Vehicle**”), and three (3) handguns (the “**Personal Property**”). The Vehicle and the Personal Property are unencumbered.

b. Employment of Bullseye as Auctioneer

5. On March 31, 2020, Trustee filed his *Application to Employ Auctioneer* [Doc. No. 52], and, on April 1, 2020, the Court entered an *Order* [Doc. No. 53], authorizing the employment of Scott Schwartz and Bullseye Auction and Appraisal, LLC (“**Bullseye**”) as Trustee’s Auctioneer.

Request for Relief

6. Trustee requests authority to sell the Vehicle and the Personal Property by public auction through Bullseye, “as is, where is, with faults”; free and clear of all liens, claims, interests, and encumbrances. The auction will take place at 500 Pike Park Drive, Suite F, Lawrenceville, Georgia 30046, and, although the date and time of the public auction has not yet been determined, Trustee expects that it will occur within 30 days of entry of an order approving the proposed sale.

7. Trustee also requests that the Bankruptcy Court waive the 14-day stay provided in Rule 6004(h) of the Federal Rules of Bankruptcy Procedure.

8. Finally, Trustee requests authority to pay to Bullseye a 10% commission, any

costs associated with transporting the Vehicle, and any out-of-pocket expenses up to \$1,500.00.

Basis for Requested Relief

9. Section 363 of the Bankruptcy Code authorizes a trustee “after notice and a hearing . . . [to] use, sell, or lease, other than in the ordinary course of business, property of the estate . . .” 11 U.S.C. § 363(b)(1) (2015).

10. The standard to grant a sale of property outside of the ordinary course of business is the sound business judgment of the trustee. *In re Chateaugay*, 973 F.2d 141 (2d Cir. 1992); *Stephens Indus. v. McClung*, 789 F.2d 386, 390 (6th Cir. 1986); *In re Abbotts Dairies of Penn., Inc.*, 788 F.2d 143 (3d Cir. 1986); *Committee of Equity Security Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983). In this regard, the showing need not be exhaustive. Rather, a trustee is “simply required to justify the proposed disposition with sound business reason.” *In re Baldwin United Corp.*, 43 B.R. 888, 906 (Bankr. S.D. Ohio 1984).

11. Here, selling the Vehicle and the Personal Property is within the sound business judgment of Trustee because, upon information and belief, the proposed sales will generate a meaningful distribution to holders of allowed unsecured claims.

12. As to a sale free and clear, Trustee can sell the Vehicle and Personal Property free and clear of any liens, claims, interests, and encumbrances because they are unencumbered.

WHEREFORE, Trustee respectfully requests that this Court:

a) Approve Trustee’s proposed sale of the Vehicle and Personal Property, following Notice to all creditors and parties in interest of the Sale Motion, the date of the Hearing, and the deadline for any objection;

- b) Waive the stay provided under Fed.R.Bankr.P.6004(h) so that the Trustee may proceed immediately with the proposed sale;
- c) Authorize Trustee to pay a ten (10%) commission to Bullseye along with costs, including any costs associated with transporting the Vehicle, not to exceed \$1,500.00; and
- d) Grant such other and further relief as is just and proper.

Respectfully submitted this 20th day of April 2020.

HERBERT C. BROADFOOT II, P.C.
Attorneys for Trustee

By: /s/ Herbert C. Broadfoot II
Herbert C. Broadfoot II
Georgia Bar No. 083750
bert@hcbroadfootlaw.com

2964 Peachtree Road, N.W. Suite 555
Atlanta, Georgia 30305
Phone: (404) 926-0058

CERTIFICATE SERVICE

This is to certify that I have served a copy of the *Trustee's Motion (1) for Authority to Sell at Public Auction Personal Property of the Estate Free and Clear of all Liens, Claims, Interests, and Encumbrances and (2) to Allow and Authorize Certain Disbursements* to all parties listed below by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage affixed thereon to assure delivery. Additionally, the *Notice of Pleading, Deadline to Object, and For Hearing* was served by U.S. Mail, First Class, postage prepaid to all parties listed on the attached mailing matrix.

Office of the United States Trustee
362 Richard B. Russell Federal Building
75 Ted Turner Drive, SW
Atlanta, GA 30303

S. Gregory Hays
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Lamberth, Cifelli, Ellis & Nason, P.A.
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John A. Medina
Kenney & Medina, P.C.
593 Main Street
Suwanee, GA 30024

Scott Schwartz
Bullseye Auction & Appraisal, LLC
500 Pike Park Drive, Suite F
Lawrenceville, GA 30046

This 20th day of April, 2020.

/s/ Herbert C. Broadfoot II
Herbert C. Broadfoot II
Georgia Bar No. 083750

Label Matrix for local noticing
113E-1
Case 18-71767-pmb
Northern District of Georgia
Atlanta
Fri Apr 17 16:11:46 EDT 2020

A. Christian Wilson
Simpson Uchitel & Wilson LLP
3490 Piedmont Rd NE Ste. 1100
Atlanta, GA 30305-4812

Advanced Color Imaging
5300 Oakbrook Parkway
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Norcross, GA 30093-6210

American Express
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Ameripride
1081 Experiment Stn Rd
Watkinsville, GA 30677-2441

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1st Global Capital LLC
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Cleveland, GA 30528-2715

All State Mail Services
PO Box 93717
Las Vegas, NV 89193-3717

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PO Box 1270
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Melville, NY 11747-2725

BMI
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Watkinsville, GA 30677

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2630 Talley Street
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Decatur, GA 30030-5348

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PO Box 3001
Malvern PA 19355-0701

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c/o Rachelson & White
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Earl Cloud, III
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COMPLIANCE DIVISION
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ATLANTA GA 30345-3202

Georgia Dept of Revenue
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Ste 9100
Atlanta, GA 30345

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Atlanta GA 30303-1751

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Atlanta GA 30303-1751

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Georgia Power Company
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Jamestown PCM Master Tenant LP
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Atlanta, GA 30307

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Atlanta, GA 30307

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Navitas Credit Corp
Attn: Charlie Butler
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Columbia, SC 29210

(d)Navitas Credit Corp.
Suite 100
201 Executive Center Dr.
Columbia SC 29210

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)American Express

(u)Cenlar FSB

(u)Loft Mortgage

(u)Nationstar Mortgage LLC d/b/a Mr. Cooper

(u)Pingora Loan Servicing

(du)Pingora Loan Servicing, LLC

(u)Town House Mortgage

End of Label Matrix
Mailable recipients 85
Bypassed recipients 7
Total 92